

# Committee on Resources,

## Subcommittee on Fisheries Conservation, Wildlife & Oceans

[fisheries](#) - - Rep. Wayne Gilchrest, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6232 - - (202) 226-0200

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### Witness Statement

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### Introduction

Chairman Gilchrest, Delegate Underwood and members of the Subcommittee, I am Bob Tudor, Deputy Commissioner of the New Jersey Department of Environmental Protection and Vice Chair of the Coastal States Organization (CSO). Thank you for the opportunity to testify this morning on behalf of CSO and the nation's 35 coastal states and territories.

Since 1970, CSO has represented the collective interests of the coastal states and territories along the Atlantic and Pacific Oceans, Gulf of Mexico, and Great Lakes. CSO is an advocate for states working for sound and balanced management, protection and restoration of our nation's natural and economic coastal resources.

I would also like to acknowledge the efforts of my home State Representatives on the Subcommittee -- former Chair, Representative Jim Saxton, and Representative Frank Pallone, for their leadership and support of coastal resource management and protection.

CZMA has long enjoyed widespread bipartisan support in Congress and public support out in the states. CSO looks forward to working with Congress to complete reauthorization this year.

### Summary of Key Recommendations

CSO's reauthorization objectives and recommendations can be summarized as follows:

- It is critical that Congress raise the funding for state coastal program grants and the cap on allocations of Section 306 grants so that all states can share equitably in the funding increases needed to address the increasingly complex challenges facing our nation's coastal communities. The cap, which has been in place for the last 9 years, restricts funding to 15 of the 33 states with approved programs. Increased program support is needed to enable states and communities to keep pace with increasing development, population growth, expanding coastal tourism, and land and water use changes in the coastal zone. We recommend that funding for these programs be set at \$80 million in FY2002, consistent with the proposed budget recommendations and be increased in the out years.
- Additional funding for grants to states to provide assistance for coastal communities initiatives to accommodate growth efficiently and protect and restore critical open space, habitats and coastal resources. Coastal community funding should be in addition to, and not compete with, funding for implementing existing state coastal program components and commitments. Community assistance

grants should be available for a broad range of uses , including characterization, assessment and planning and studies, as well as acquisition and specific projects. We recommend that funding be set at a minimum of \$40 million in FY2002 for assistance and increased substantially in the out years to provide increased emphasis on implementation efforts and sustained support for communities and conservation.

- While it is essential that states retain the flexibility under the CZMA to establish their own priorities for designing and implementing coastal programs consistent with national objectives, CSO also supports changes to the CZMA that would improve accountability through the development of appropriate outcome indicators that can be used track the effectiveness of the CZM programs.
- Finally, the CZMA consistency provisions, which require federal activities, licenses and permits to be consistent with federally approved state coastal policies, are the cornerstone of the federal/state partnership under the CZMA. Coastal states and territories will oppose any proposals that seek to weaken states' rights under CZMA's consistency provisions to review activities that affect coastal resources and uses.

### **The CZMA: A Cooperative Framework for Improving the Quality of Life Along the Coast**

The overall objective of state coastal management's collective efforts is simple -- to protect and improve the quality of life for the people who live near and visit the coast and to protect and restore the natural resources upon which that quality of life depends. It is increasingly clear that to achieve this objective in the face of continuing growth of population and increasing conflicts among people and businesses dependent on the coast will require an increased commitment shared by all levels of government in partnership with local communities and the private sector. Past mistakes need to be remedied and future ones avoided.

Since colonial times, development has been concentrated along our nation's coasts and we have depended on the coasts for commerce, transportation, fishing and recreation. Until passage of the *Coastal Zone Management Act* (CZMA) in 1972, decisions affecting coastal resources were made in piecemeal fashion with little consultation or coordination between the federal, state and local governments. The CZMA recognizes that integrated planning and management, and the coordination of multiple agency efforts and conflicting mandates are important to successful conservation of coastal resources while accommodating economic growth.

In New Jersey, we are seeking to implement this comprehensive management regime by working with local communities to integrate state and regional planning, state-wide land acquisition and habitat characterization initiatives, and watershed management into local action. An integrated plan for America's coasts through CZMA supported federal-state-local partnerships can provide an excellent framework for balancing competing interests and uses along our nation's coast; protecting coastal ecosystems; redeveloping shorelines and urban waterfronts; and enhancing the economic vitality of coastal communities and the nation.

**A Flexible, State-Based Framework:** The CZMA establishes a federal-state partnership to achieve the goal of maximizing sustainable economic and environmental objectives. The CZMA provides a flexible framework to develop collaborative, innovative community-based strategies. The CZMA incorporated the essential principles of the "sustainability" and "stewardship" more than twenty years before the terminology came into vogue. Congress was prescient in 1972 when it adopted CZMA to provide incentives:

*to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve the wise use of the land and water*

*resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development programs . . . (16 U.S.C .1452(2))*

In developing their coastal management programs, states in consultation with local communities, determine the right mix of incentives, cooperation, regulation, and education needed to address coastal management priorities.

**A Federal - State Partnership:** Through the CZMA, Congress provides incentives to states to develop comprehensive programs to balance the many competing uses of coastal resources. The CZMA provides incentives to the states to identify their own coastal management priorities consistent with broad national objectives. All federal funds are required to be matched by the states dollar for dollar, and leverage significantly more investment from the local partners and the private sector. There is no greater testament to the success of the state/federal partnership forged by the CZMA than the fact that 34 of 35 eligible coastal states have chosen to participate in the program. Through their voluntary participation, states promote the many national interests cited in the CZMA--protecting fish and wildlife habitats; managing coastal development in hazardous areas; coordinating the siting of energy, commercial and industrial facilities; improving public access to the shore; restoring and redeveloping waterfronts; streamlining permitting procedures; and involving the public and private sector in decision-making.

**Ensuring Consistency with State Programs:** In enacting the CZMA, Congress recognizes that unless federal agency actions and permits were consistent with federally approved state CZM plans, the national goals of the CZMA would never be reached. Once state programs are federally approved, federal actions impacting state resources, including licenses and permits, are required to be consistent with state program policies. The CZMA provisions under section 307 focus on the need for coordination and consultation, and include adequate review of state actions and full consideration of the national interest.

**NERRS -- Living Laboratories and Classrooms:** The CZMA also established the National Estuarine Research Reserve System (NERRS.) NERRS currently consists of a network of 25 state operated coastal and estuarine areas. Two more are under development. NERRS are set aside as sites to enhance coastal stewardship, monitoring, research and education. These sites provide areas for intensive study of the estuarine ecosystems that typify the biogeographic regions of the United States, so that coastal managers and local decision-makers can be provided with a better understanding of the biological, chemical and geophysical dynamics which must be taken into account if our efforts at coastal and estuarine restoration and protection are to succeed.

## **The Challenges Ahead**

In the nearly 30 years since the enactment of the CZMA, the Clean Water Act and other landmark environmental statutes we have addressed many of the immediate problems along the coast. The challenges that lie ahead are more difficult and complex. They cut across political and ecological boundaries, the public policy spectrum, and all levels of government, as well as non-governmental and private sector interests. In order to address these challenges effectively, we need to take advantage of the inherent strengths of the CZMA to:

- (i) coordinate decision-making across programs and levels of governments;
- (ii) transcend specific mandates to address multiple resource management objectives; and

(iii) utilize the best available information to develop consensus and support implementation of locally-designed solutions that take into account broad landscape and ecosystem management goals.

The population density of coastal counties are already five times the national average, and coastal areas are becoming more crowded every day. (See chart attached as Appendix A) From 1996-2015, coastal population is projected to increase from 141 million to 161 million. Increased development pressures inevitably follows population growth. For example, in the Delaware Estuary, population is projected to increase 10.9 percent, from 4.9 million in 1990 to 5.3 million in 2020; while developed land forecast to increase 36 percent from slightly over 700 acres in 1990 to almost 1000 in 2020. (See chart attached as Appendix B.)

In addition, coastal tourism is one of the fastest growing segments of the US economy. In 1999, tourism in New Jersey generated an all time high of \$127.7 billion in revenues and supported nearly 500,00 jobs. The nation's economy is increasingly dependent upon the international trade that in 1995 moved cargo valued at \$620 billion through our nation's ports. Coastal management programs in California, Massachusetts, Texas, South Carolina, Delaware and many others are working with port communities to identify suitable long term disposal and management of dredged material and to assess the impacts of planned port expansion on local communities and harbor uses.

While we have made significant progress in reducing the loss of coastal habitats and the pollution of coastal waters, much remains to be done. In 1998, there were approximately 7,200 beach closings and advisories in coastal and Great Lakes waters, about 30 percent of the nation's shellfish-growing areas are closed or have harvest restrictions. In New Jersey, between 1986 and 1995 we experienced a net loss of agricultural lands, forest lands and wetlands. Pressures are particularly acute in coastal areas in New Jersey and other states. Increasing outbreaks of harmful algal blooms, the expansion of the dead zone in the Gulf of Mexico, and threat of sea and lake level rise are a few of sobering reminders that many of our most intractable coastal challenges lie ahead.

CZMA can also provides a mechanism for resolving issues of national significance such as the exploration of oil and gas in offshore waters. In Louisiana the state coastal management program is getting preparing to examine pipeline corridors for oil and gas transmission lines with the intent of establishing corridors where such lines can be installed with minimal environmental disturbance through an expedited permitting process. While issues regarding energy production vary among the states and can be very emotional, we must remember that these activities, conducted using environmentally sound technology, are important to our nation and are important to the economies of several coastal states. CZMA provides a framework for states to work through these issues based their individual needs but within the national policies.

### **CZMA Reauthorization Recommendations**

CSO, working with its Delegates and state CZM and NERRS program managers, has identified the following recommended changes to the CZMA that will support more effective implementation of the nation's coastal and NERRS programs to meet future challenges.

(1) *Eliminate the "cap" and increase state grant support under CZMA Section 306.* Equitable funding increases are needed by all states and territories to assure the maintenance of existing state commitments to implement CZ program activities and administration. Despite increasing population, conflicts in the coastal zone, and pressures on coastal resources, funding under CZMA section 306 for state grants to administer and implement their coastal programs under 306 have been capped at the \$2 million for the past nine years

by the Appropriations Committee. As a result, many states with have receive no increases in 306 grants since 1991, and 15 of the 35 eligible states have reached the cap level in FY 2001. (The states currently at the maximum include Alaska, California, Florida, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, South Carolina, Texas, Virginia and Washington.)

These grants will provide support for critical coastal watershed management, interagency-coordination, habitat characterization and restoration, hazard mitigation and public access activities. For example:

In Louisiana, where 25-35 miles of wetlands are lost each year, a 50-year plan for coastal restoration has just been completed. This provides a comprehensive blueprint for action needed to protect these wetlands which are important to Louisiana and the nation. The coastal program also recently introduced an innovative a Permit Information Center where permit applicants can meet a permitting expert for assistance in preparing applications.

The Massachusetts CZM program provided support for the four towns abutting Pleasant Bay on Cape Cod, a state Area of Critical Environmental Concern (ACEC), to develop local consensus around a resources management implementation plan, the state does not have sufficient funds to support plans in the remaining 13 ACEC's in the coastal area.

Guam's coastal management program is working in partnership with the University of Guam and Guam EPA to develop a strategy for managing dredge activities associated with contaminated sediments.

North Carolina has awarded almost \$9 million in state and federal funds since 1982 for public beach and waterfront access projects.

(2) *Authorize state grants to assist local communities and decision-makers.* These grants should be in addition to state program administration and implementation funding and be targeted to assist local communities to understand, plan and undertake actions that will accommodate growth and support conservation and restoration of critical coastal open space, habitats, protective shorelines and other natural coastal features.

Technological advances, such as the development of computer generated geographic information systems (GIS), have greatly expanded the ability to assess the impacts of infrastructure placement in relation to existing development, future growth patterns and natural resources. However, local community officials and planners in many cases do not have the resources to get past the entry-level threshold to make use of these tools, or do not have the information they need to consider the impacts of their local decisions on a broad landscape and regional ecosystem scale.

For example:

In New Jersey, we are expanding efforts to provide the technical tools and information needed for informed, adaptive coastal management at the state and local level through development of key environmental data on land use and land cover change and coastal monitoring, assessment and impact projection tools that will be available to local communities.

The Maryland coastal program has funded development sensitive area inventories, modeling of growth scenarios, GIS mapping, and development of plans to support local governments efforts under the state's Economic Growth, Resource Protection and Planning Act.

Louisiana is supporting the efforts of its 19 coastal parishes to develop and adopt local coastal management plans, and is supporting a web-based tracking system that will allow permit analysts and the public view data on projects and affected habitats

North Carolina has established the Population, Development, Resource Information System, a comprehensive database of information related to population growth, economic development and natural resources which assists in local watershed management efforts.

(3) *Support ongoing review and enhancement of state coastal programs to address CZMA goals.* Under CZMA, between 10-20 percent of the state grants are set aside under section 309 for states to enhance their coastal management programs. Under 309, states review the coastal management programs every five years to assess how they can be improved to address the national goals of the CZMA more effectively. As an incentive, no cost-share is required to match this portion of the state grants. These enhancement grants are particularly effective in supporting state efforts to support local community to improve their management efforts.. Congress should consider expanding eligibility for enhancement grants beyond the incorporation of specific "program changes" to include support for innovative projects or other activities that will significantly improve the management of coastal resources. State enhancement efforts under section 309 should be linked with CZMA program review provisions under CZMA 312 and the development of coastal programs outcome based performance indicators (see discussion below.)

(4) *Direct NOAA to provide and coordinate management-oriented research supporting state coastal management efforts by states and NERRS.* The technical and scientific issues relating to coastal management are increasingly complex. NOAA can do a much better job in moving beyond development of research, tools and technology products to assure the availability of information and tools in a form and at a scale that is usable by coastal decision-makers. Communities and states must look to new technology and tools that will increase the ability of coastal decision-makers to assess, monitor cumulative and secondary impacts on coastal resources.

Congress should consider amending CZMA section 310 to direct NOAA to work with states and the National Estuarine Research Reserve System, to identify management-oriented research priorities and annual work plans for research that address state and regional priorities, and to maintain a clearinghouse of research, information and technologies that will assist states and communities to improve the management of the nation's coastal resources. These efforts should be coordinated with other federal agencies and support implementation of the *Integrated Coastal Monitoring and Research Strategy*, recently published jointly by EPA, NOAA, USGS and other agencies.

The lack of adequate information is perhaps the greatest impediment to state and local coastal management. In conducting required assessments under the CZMA section 309 enhancement grants program, two recurrent themes were apparent.

- The methodologies and data for determining cumulative impacts, such as from recreational boating, need to be further developed.
- Data is lacking to assess trends and the effectiveness of state programs.

NOAA has the capability to fill many of these gaps. Section 310 needs to be amended to ensure that the

expertise, resources, products and services of NOAA are delivered to state and local decision-makers. These efforts need to go beyond demonstration projects. The results of successful demonstration projects need to be transferred to other states.

*(5) Increase support for the National Estuarine Research Reserve System (NERRS) through CZMA section 315.* CZMA reauthorization should include the specific technical amendments and reauthorization recommendations of the National Estuarine Research Reserve Association (NERR). CZMA reauthorization should retain the current cost-share ratio and, at a minimum, provide the funding necessary to support the existing system of 25 NERRS sites and future funding to support the planned growth of the system to fill current state and eco-regional gaps. Language should be added to provide funding without match specifically to support national education initiatives, including the Coastal Training Institutes Initiative and the System-Wide Monitoring Program (SWAMP.)

*(6) Support development of cost-effective, outcome and Coastal Program Effectiveness Indicators.* CSO supports strengthening the accountability of CZM programs. The development of indicators that can be used to track the effectiveness of coastal management programs in supporting state program objectives and national goals of the CZMA. The provision should require that appropriate outcome indicators for the program be developed in consultation with and participation with State representatives, be flexible enough to address the variations among state program priorities, and be cost-effective and not unduly burdensome to implement. Funding should be provided to the state to support the development of state specific indicators and the necessary collection and analysis of data to assess program effectiveness.

**Testimony of Robert Tudor, Deputy Commissioner,**

**New Jersey Department of Environmental Protection**

**Vice Chair of the Coastal States Organization**

**House Resources Committee, Subcommittee on Fisheries Conservation, Wildlife and Oceans**

**May 25, 2000**

### **Additional Specific Comments on the CZMA Reauthorization Discussion Draft and H.R. 897**

#### **Adjustment of the Cap on State Grant Allocations:**

*CSO Recommendation:* CSO supports for the language in the Discussion Draft clarifying that all states should share equitably in funding increases under CZMA Section 306.

*Comments:* This language clarifies the Congressional intent that a cap should not be imposed that limits states from sharing in programs funding. The current cap of \$2 million on state Section 306 grant allocations has been imposed annually in the appropriations process for the past nine years. Sixteen of the 33 states with approved coastal programs are currently at the cap and do not share in any appropriations increases for the program.

#### **Allocation of 50 Percent of State Grants to Eligible Coastal Community Projects:**

*CSO Recommendations:* CSO supports increased authorization of funding to states that can be directed to assist local communities to address critical growth management, habitat protection and restoration needs.

CSO cannot support the 50 percent set aside of grants as proposed in the Discussion Draft. The set aside would effectively reduce grants to many states to administer ongoing coastal program commitments. CSO recommends that the Subcommittee consider a separate additional authorization for state grants to assist communities as provided in H.R. 897 and S. 328.

*Comments:* CSO agrees with the intent of both the Discussion Draft and H.R. 897 to increase support for grants to states to assist coastal communities. However, the approach proposed in the Discussion Draft has a potential to undermine both state and local efforts. When combined in a single line item, the allocation of 50 percent of a state's grant to local assistance could severely impact the implementation of on-going state programs. Funding for community grants should be in addition to, not reduce, the funding currently available to states under Section 306 to implement and administer CZM programs. Continued support for these state program activities is important to local efforts to accommodate growth and protect resources even when the assistance is not provided as funds given directly for the local projects.

### CZM Funding Levels

*CSO Recommendation:* CSO recommends that a minimum of \$80 million be authorized in FY2002 for CZMA program implementation under current Section 306/306A and 309, and an additional \$40 million for coastal community grants. Funding in succeeding years should be increased to provide for additional funds as needed.

The \$80 million authorization of appropriations levels proposed in the Discussion Draft, falls far short of what would be needed to hold currently program need whole and provide the additional assistance needed to provide the 50 percent envisioned for proposed Coastal Community Projects initiative. The \$80 million level proposed by CSO is consistent with the FY2001 budget recommendation for current CZM program needs, including coastal nonpoint pollution. An additional authorization \$40 (50 percent of the proposed authorization level in the Discussion Draft) should be included in the to initiate the coastal community projects initiative

### Eligibility for Coastal Community Projects

*CSO Recommendations:* (1) The Subcommittee should community project eligibility criteria based on the recommendations of S. 328 and H.R. 897 that includes support for development of local plans and which focus on accommodating growth and restoring and protecting critical open space and habitats.

(2) Provisions of the Discussion Draft and H.R. 897 requiring that eligible projects must be done "in conjunction" with local governments should be clarified. States should be able to undertake projects in coordination with and for the benefit of local governments.

(3) Eligibility should include land acquisition, easements and other methods for land conservation and protection currently eligible under Section 306A. The eligibility requirements should be reviewed to assure they include the project categories and types currently eligible under Section 306A

(4) ) The Discussion Draft should be amended to clarify that individual projects do not need to be submitted to the Secretary but, rather, eligible community projects should be consistent with implementation of the state coastal management plans and submitted by the state CZM agency as part of the state's annual CZM implementation plan.



### Consolidation of CZMA Grants and Elimination of Section 309 Enhancement Assistance

*CSO Recommendation:* (1) Maintain CZMA authority to set aside a portion of the state grant, without match, as an incentive to states to enhance CZM program effectiveness in addressing national coastal program goals and objectives.

(2) Expand eligibility for 309 grants beyond incorporation of technical program changes to include innovative activities and projects that will significantly improve state or local coastal management efforts to further national goals.

*Comments:* The proposed Discussion Draft would consolidate state coastal management grants into a new Section 309, and eliminate grants to states to enhance their programs to address national objectives and emerging issues. While CSO agrees with the goal of simplifying and consolidating grants and would like to work with the Subcommittee to develop appropriate language, it should not come at the expense of current section 309 incentives for states to improve their programs. Continuation of the enhancement program and its link to national goals is also consistent with the recommendation of both the Discussion Draft and H.R. 837 that outcome indicators be developed to determine the effectiveness of coastal management programs in supporting the national goals of the CZMA.

Section 309, in its current form, was added to the CZMA in 1990 to provide states with no match federal assistance to upgrade their programs in areas identified in the section as national priorities. The section requires states to perform periodic assessments of the adequacy of their programs to meet these national priorities and develop strategies for improving their programs. Consideration should be given to expanding eligibility beyond incorporation of specific "program changes" to encourage innovation projects and activities by the states and local communities that will significantly improve the effectiveness of coastal program management.

The development of enhancement strategies is important both to the states in assuring a regular evaluation of program effectiveness in addressing national goals and to the federal government in providing incentives to states to upgrade their programs on an ongoing basis to address ever changing coastal challenges. The section 309 enhancement program has ensured that at least some of a state's share of the annual grant allocation is dedicated to improving the program where it would otherwise be devoted to meeting the immediate demands for program implementation and local assistance.

### Proposed Elimination of Technical Assistance under Section 310

*Recommendation:* Retain CZMA Section 310, and amend to require annual coordination with the states and NERRS in identification of results-based coastal management research priorities, and strengthen the accountability of NOAA to provide a clearinghouse and work with other agencies to expand research and technical support for coastal management.

*Comments:* CSO believes that one of the centerpieces of this reauthorization should be the reinvigoration of results-based research and technical assistance by NOAA consistent with section 310. The need for information and research at a scale relevant to the states and focused on priority coastal management issues, is also important to the development of coastal effectiveness indicators. NOAA has a vast array of expertise, services and products which have not been fully utilized in assisting states with the on-the-ground efforts to address coastal issues. The current NOAA leadership is to be lauded for their efforts to improve NOAA's technical assistance to states and a revised section 310 should provide the needed directives to reinforce

these efforts..

### Federal Consistency Provisions under Section 307

*Recommendation:* CSO is pleased to see that no changes have been proposed in neither H.R. 897 nor the discussion draft to the provisions of section 307 of the CZMA.

*Comments:* The title of section 307--"Coordination and Cooperation"-- is not a misnomer. The history of the implementation of section 307 by states, NOAA and the Secretary of Commerce refutes any claims that the provisions of the CZMA which encourage federal actions to be consistent with state programs have been exercised in an arbitrary and impudent manner. Of the thousands of consistency determinations that have been made under the Act, only a handful have generated controversy. Even those subject to state review authority under the CZMA consistency provisions agree that the process has the effect of serving as an early warning system of potential problems and encourage states and applicants to work out potential problems before they manifest. The independent review of appeals of state denials of consistency ensures that the overriding national interest is preserved when necessary for the national interest. CSO would strongly oppose any changes to the CZMA which would substantially alter section 307.

### Eligibility of Non-Profits to Implement Community / 306A projects.

*Recommendation:* CSO proposes that Section 306A(e) be amended to make it clear that funds can be allocated to "*not-for-profit organizations*."

*Comments:* Such grants should be available only to undertake the objectives of section 306A and not directly to benefit such groups. In some cases, states have identified local non-for-profit groups as the best suited to undertake projects or activities eligible under the Coastal Resource Improvement Program under Section 306A.

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